

## § 1256.10

the following persons and organizations of the researcher's failure to follow the conditions of use:

- (1) The institution with which the researcher is affiliated, if applicable;
- (2) Persons who served as references in the application for access;
- (3) Organizations which provided grant funds for the project;
- (4) The sponsor of the publication or public presentation; and/or
- (5) Appropriate professional organizations.

[53 FR 6821, Mar. 3, 1988]

### Subpart A—General Restrictions

#### § 1256.10 National security information.

(a) *Records.* Records containing information regarding national defense or foreign policy and properly classified under an Executive order.

(b) *Restrictions.* Such records may be disclosed only in accordance with the provisions of such Executive order and its implementing directive.

(c) *Imposed by.* Archivist of the United States in accordance with 5 U.S.C. 552 and 44 U.S.C. 2108.

[48 FR 6540, Feb. 14, 1983. Redesignated at 50 FR 15723, Apr. 19, 1985]

#### § 1256.12 Information exempted from disclosure by statute.

(a) *Records.* Records containing information which is specifically exempted from disclosure by statute.

(b) *Restrictions.* Such records may be disclosed only in accordance with the provisions of 44 U.S.C. 2108.

(c) *Imposed by.* Archivist of the United States in accordance with 5 U.S.C. 552 and 44 U.S.C. 2108.

[48 FR 6541, Feb. 14, 1983, as amended at 48 FR 45393, Oct. 5, 1983. Redesignated at 50 FR 15723, Apr. 19, 1985]

#### § 1256.14 Trade secrets and commercial or financial information.

(a) *Records.* Records not restricted by statute but which contain trade secrets and commercial or financial information submitted to the government with an expressed or implied understanding of confidentiality.

(b) *Restrictions.* Such records may be disclosed only if:

## 36 CFR Ch. XII (7-1-03 Edition)

(1) The party that provided the information agrees to its release; or

(2) In the judgment of the Archivist of the United States, the passage of time is such that release of the information would not result in substantial competitive harm.

(c) *Imposed by.* Archivist of the United States in accordance with 5 U.S.C. 552 and 44 U.S.C. 2108.

[48 FR 6541, Feb. 14, 1983. Redesignated at 50 FR 15723, Apr. 19, 1985]

#### § 1256.16 Information which would invade the privacy of an individual.

(a) *Records.* Records containing information about a living individual which reveal details of a highly personal nature that the individual could reasonably assert a claim to withhold from the public to avoid a clearly unwarranted invasion of privacy, including but not limited to information about the physical or mental health or the medical or psychiatric care or treatment of the individual, and that—

(1) Contain personal information not known to have been previously made public, and

(2) Relate to events less than 75 years old.

(b) *Restrictions.* Such records may be disclosed only:

(1) To those officers and employees of the agency that transferred the records to the National Archives who have a need for the record in the performance of their official duties;

(2) To those officers and employees of the agency that originated the information in the records who have a need for the records in the performance of their official duties;

(3) To researchers for the purpose of statistical or quantitative research when such researchers have provided the National Archives with adequate written assurance that the record will be used solely as a statistical research or reporting record and that no individually identifiable information will be disclosed; or

(4) To the subject individual or his duly authorized representative (the individual requesting access will be required to furnish reasonable and appropriate identification). Access will not

be granted, however, to records containing the following categories of information:

(i) Investigatory material compiled for law enforcement purposes or for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, or Federal contracts if the identity of the source who furnished the information to the Government under an expressed or implied promise of confidentiality is revealed;

(ii) Evaluation material used to determine potential for promotion in the armed services if the identity of the source who furnished the information to the government under an expressed or implied promise of confidentiality is revealed; and

(iii) Security classified material.

(c) *Imposed by.* Archivist of the United States in accordance with 5 U.S.C. 552 and 44 U.S.C. 2108.

[48 FR 6541, Feb. 14, 1983. Redesignated at 50 FR 15723, Apr. 19, 1985]

**§ 1256.18 Information related to law enforcement investigations.**

(a) *Records.* Records compiled for law enforcement purposes.

(b) *Restrictions.* Such records may be disclosed only:

(1) If the release of the information does not interfere with enforcement proceedings, and

(2) If confidential sources and/or confidential information are not revealed, and

(3) If the release of the information would not constitute an unwarranted invasion of personal privacy, and

(4) If confidential investigation techniques are not described, and

(5) If the release of the information would not endanger the safety of law enforcement personnel, or

(6) If, in the judgment of the Archivist of the United States the passage of time is such that:

(i) The safety of persons is not endangered, and

(ii) The public interest in disclosure outweighs the continued need for confidentiality.

(c) *Imposed by.* Archivist of the United States in accordance with 5 U.S.C. 552 and 44 U.S.C. 2108.

[48 FR 6541, Feb. 14, 1983, as amended at 48 FR 45393, Oct. 5, 1983. Redesignated at 50 FR 15723, Apr. 19, 1985]

**Subpart B—Specific Restrictions**

**§ 1256.40 Agency-imposed restrictions.**

Some records in NARA legal custody are covered by restrictions imposed by the agency of origin that are in conformance with the Freedom of Information Act.

[50 FR 15727, Apr. 19, 1985]

**Subpart C—Domestic Distribution of United States Information Agency Materials in the National Archives of the United States**

SOURCE: 62 FR 31725, June 11, 1997, unless otherwise noted.

**§ 1256.50 Scope of subpart.**

This subpart prescribes procedures governing the public availability of audiovisual records and other materials subject to 22 U.S.C. 1461(b) that have been transferred to the National Archives of the United States by the United States Information Agency (USIA).

**§ 1256.52 Purpose.**

This subpart implements section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461), as amended by section 202 of Public Law 101-246 (104 Stat. 49, Feb. 16, 1990). This subpart prescribes procedures by which the public may inspect and obtain copies of USIA audiovisual records and other materials prepared for dissemination abroad that have been transferred to NARA for preservation and domestic distribution.

**§ 1256.54 Definition.**

For the purposes of this subpart—*Audiovisual records* mean motion picture films, videotapes, and sound recordings, and other materials regardless of physical form or characteristics